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**Sent:** Tuesday, February 20, 2018 6:46 AM  
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**Subject:** RE: Comments Regarding Definition of Developer Fee in Rule 67-21

Greetings Trey, Marisa and Brantley,

Attached please find some clean up comments for rule 67-21 regarding non-credit enhanced multifamily bonds. I am attaching a proposed mark up of 67-21.013.

I am proposing that you strike much of the first paragraph of that section that requires preparation of an analysis demonstrating that non-credit enhanced are more cost effective. The history of this provision is that it was included in the rule when Florida Housing's Guarantee Fund was actively credit enhancing many bond transactions. The Florida Housing staff and financial advisor wanted to know that a non-credit enhanced bond would be economically more favorable than a Guarantee Fund or other credit enhanced transaction before allowing such transaction to proceed. Today, Florida Housing issues many bonds on a "private placement" basis to qualified institutional buyers including banks such as Chase, Citi, SunTrust, US Bank, GSEs such as Freddie Mac and other investors such as Barings, Redstone and R-4. Developers choose their financing partner for different reasons. Typically they choose them because they provide the best economic transaction, but they may choose them for purposes of efficiency, leverage and other reasons. It is important for developers to have the flexibility to choose the structure that fits their transaction best. Consequently, I suggest you remove the analysis which was in place due to the presence of Florida's Guarantee Fund which is no longer used to finance bond transactions.

The second primary change is to delete the 3<sup>rd</sup> option for transactions with no rating or credit enhancement. I am not certain why the third option was ever included in your rule as it is redundant to option 1 only it is more onerous with a larger bond denomination requirement. While it doesn't necessarily hurt anything for option 3 to be included – it has created confusion in the past when documents are prepared as the precise language is lifted from your bond rule.

The third primary change is to add that Credit Enhancement is a requirement to be exempt from Options 1 and 2. I am suggesting that this higher threshold be placed on your bonds because S&P currently has a program that will rate affordable housing transactions without credit enhancement. The Global Ministries Portfolio was financed in this way and initially carried an "A" rating – however after the properties failed to perform, S&P reduced the rating to well below investment grade. Unless you have a requirement for Credit Enhancement, those bonds could theoretically be sold to retail investors in \$5,000 denominations which you may not want.

The last change is to strike the DTC language as "full book entry system" is not a recognized term by DTC therefore it is confusing. Therefore, I suggest removing the phrase.

Please feel free to let me know if you have any questions. Regards, Helen

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### **67-21.013 Non-Credit Enhanced Multifamily Mortgage Revenue Bonds.**

Any issuance of non-Credit Enhanced revenue Bonds shall be sold only to a Qualified Institutional Buyer. ~~Such non-Credit Enhanced revenue Bonds may only be utilized for financings where the Applicant has demonstrated that the issuance produces a substantial benefit to the Development not otherwise available from Credit Enhancement structures. The analysis of the substantial benefit must be provided in a format acceptable to the Corporation and shall include the initial issuer cost of issuance, underwriter's discount or structuring agent fee, annual debt service, total debt service and any other factors necessary and appropriate to demonstrate that the issuance produces a substantial benefit to the Development. This analysis must be provided both prior to the review of the method of Bond sale conducted by the Corporation's IRMA, and again prior to the pricing of the Bonds, showing any changes affecting the original estimated substantial benefit.~~ The Corporation shall engage the Investment Banker or structuring agent with respect to such Bonds. The Corporation, in its discretion, will allow only an underwriting discount or a structuring agent fee, but not both. Unless such Bonds are rated in one of the four highest rating categories by a nationally recognized rating service and are the subject of a Credit Enhancement instrument, ~~such Bonds shall not be held in a full book entry system (but may be Depository Trust Company (DTC) Eligible)) and~~ shall comply with at least one of the following criteria:

(1) The Bonds shall be issued in minimum denominations of \$100,000 (subject to reduction by means of redemption) and each purchaser of such Bond, including subsequent purchasers unless the requirements of subsection (2) ~~or (3)~~ below are met, shall certify to the Corporation prior to any purchase or transfer of any Bond that such purchaser is a Qualified Institutional Buyer; or

(2) The Bonds shall be issued in minimum denominations of \$250,000 (subject to reduction by means of redemption) and an investment letter satisfactory to the Corporation and its counsel shall be obtained from each initial purchaser of the Bonds (including any purchaser purchasing such Bonds in an immediate resale from an underwriter), but shall not be required of subsequent purchasers of the Bonds, to the effect that, among other things, such purchaser is a Qualified Institutional Buyer, is purchasing such Bonds for its own account and not for immediate resale to a purchaser other than a Qualified Institutional Buyer or a Freddie Mac Multifamily Targeted Affordable Housing Lender, and has made an independent investment decision as a sophisticated or institutional investor; ~~or~~

~~(3) The Bonds shall be issued in minimum denominations of \$250,000 (subject to reduction by means of redemption) and an investment letter satisfactory to the Corporation and its counsel shall be obtained from each initial purchaser of the Bonds and from each subsequent transferee of the Bonds prior to any transfer thereof, to the effect that such purchaser is a Qualified Institutional Buyer or a Freddie Mac Multifamily Targeted Affordable Housing Lender.~~